CHPC
CITIZENS HOUSING & PLANNING COUNCIL

March 10, 2009

Robert E. Feldman,
Executive Secretary,
Attention: Comments,
Federal Deposit Insurance Corporation,
550 17th Street, NW.,
Washington, DC 20429.

Re: Comments on Proposed Legacy Loans Program

Dear Executive Secretary Feldman,

We are writing in regard to FDIC's request for comments on the proposed plan for Public-Private Investment Funds (PPIFs) and the Legacy Loan Program (LLP).

Founded in 1937, Citizens Housing and Planning Council is a non-profit research organization dedicated to improving housing and neighborhood conditions through the co-operative efforts of the public and private sectors.

We are writing to request that the PPIP directly address an urgent issue affecting low and moderate income renters in New York City and in several other urban rental housing markets across the country. A large portion of our affordable multi-family rental housing stock has become significantly overleveraged. These loans are likely going to be among the assets that the PPIP will be acquiring as part of its Legacy Loan Program. The loans on these properties are dangerous and unsustainable and affect hundreds of thousands of tenants in New York City alone. These tenants bear no blame for the loans that now put these properties at risk. In order to protect these tenants, and the future of the affordable housing stock in New York City and around the country, it is critical that the Legacy Loan Program recognize this problem and address it.

We believe that this dangerous trend has also occurred in other "high market" cites where speculation in the multi-family residential housing market flourished during the recent real-estate boom. (See *New York Times* article by Terry Pristin enclosed.) In New York City, this problem has become overwhelming; advocates who have tracked this trend now estimate that as many as *70,000* units of rental housing are at risk of disinvestment and foreclosure due to over-leveraging. The majority of these rental units are occupied by low and middle income families who are extremely vulnerable and who do not possess the resources to find adequate housing if this crisis leads to massive displacement and loss of services.

We are strongly urging that the LLP be structured to address this problem and to create a Multi-Family Preservation Program that will assist with de-leveraging this crucial housing stock and bring relief to hundreds of thousands of low and moderate income renters across the country.

As in the Homeowner Affordability and Stability Plan, we believe that loans acquired on affordable multifamily rental housing by PPIP participants should be handled in accordance with the following principles:

- Over-leveraged loans must be deleveraged to a "fair market value." "Fair market value" indicates that such mortgages be valued utilizing assumptions that insure that the current rental income will be adequate for the proper operation and maintenance of the property, along with reasonable reserve payments and debt service.

- On properties where debt does not meet the "fair market value" test, lenders will be required to perform a physical inspection of the asset in consultation with HUD (or a HUD designated unit of local government).A failed physical inspection will trigger a "regulatory default" and the property should be placed into foreclosure.

- If borrowers are in financial default, lenders should be compelled to seek swift foreclosure actions.

- In the event that a loan modification is negotiated which results in debt forgiveness for an existing borrower or a preservation purchaser, they should be required to enter into a long term use-agreement with HUD, or a HUD designated unit of local government, that ensures the long term financial, health, physical integrity, and affordability of the mortgaged property.

As part of the LLP, the FDIC may consider setting up a separate unit to take these multifamily loans, and resell them pursuant to the principles stated above. This would be similar to the Resolution Trust Corporation used in the clean up the savings and loan problems of the late 1980s.

If you wish to discuss these comments you may contact Harold Shultz, Senior Fellow at (212) 286-9211 Ext 110 or Jerilyn Perine, Executive Director at (212) 286-9211 Ext 119.

Thank you for your consideration.

Harold M. Shultz
Senior Fellow

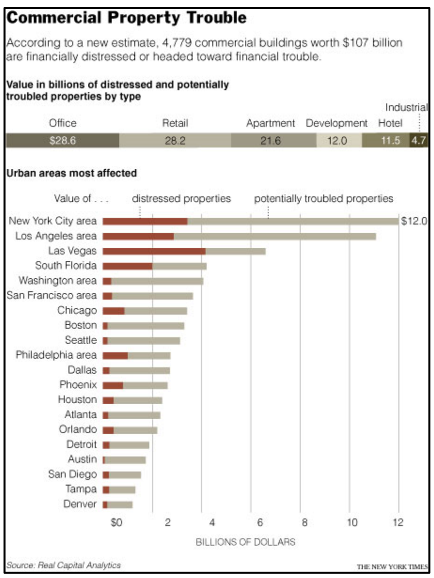
The New York Times
nytimes.com

December 17, 2008
Square Feet

A List a Landlord Doesn't Want to Be On

By TERRY PRISTIN

For many months now, the commercial real estate industry has been grim about its future, but it has been hard to quantify just how bad things are. The default rate for loans packaged into securities and sold on Wall Street has remained well under 1 percent, yet today that low figure is considered highly misleading.



Now a New York research company, Real Capital Analytics, has compiled data showing that at least $107 billion worth of income-producing property — including hotels, offices, apartment complexes and warehouses — is already in distress or is headed in that direction.

The distress is occurring all across the country, but New York tops the list because of the number of costly high-profile transactions that occurred during the boom years. Real Capital Analytics' list includes a total of 268 properties in the New York area, with a value of $12 billion, as already or potentially in trouble.

"The trouble that's emerged is bigger than most of us expected," Robert M. White Jr., the president of Real Capital Analytics, said in an interview in his Manhattan office, "and the size of the problem that is potentially out there is much greater than we thought we would be able to quantify at this point." Many of these difficulties have surfaced just since mid-September, when the financial world suffered a series of jolts, including the collapse of Lehman Brothers, he said.

Until now, most of the reporting on loan defaults has come from companies that monitor commercial mortgage-backed securities. But securitized loans make up only 31 percent of Mr. White's database, which also includes condominium construction loans, bank loans that were not securitized and debt issued by insurance companies and so-called mezzanine lenders, which hold junior debt positions.

More than 1,000 properties are clearly in trouble, he said. Owners of about 200 properties have surrendered the keys to their lenders. Another $21.2 billion worth of buildings are categorized as troubled based on one or more of the following criteria: foreclosure proceedings have been started, the property owner has received a notice of default, a receiver has been appointed, or the landlord or sole tenant has filed for bankruptcy protection.

Standing on the precipice of distress are more than 3,700 properties, valued at $80.9 billion, Real Capital Analytics said. This category includes $40 billion worth of properties whose owners are suffering financially. It also covers $26 billion worth of buildings with loans maturing next year, when credit is expected to remain tight and borrowers will probably be unable to refinance their properties unless they accept much more onerous terms. They could be forced to reach deep into their own pockets to hold onto properties that have declined significantly in value.

Based on a small volume of sales, prices have dropped by as much as 15 percent. But Mr. White said he expected values to decline by 25 to 30 percent when owners who have been holding out are actually forced to sell. When Goldman Sachs predicted a decline of that magnitude earlier this year, Mr. White said he became angry. “I thought that was alarmist,” he said. “I said, ‘No way.’ But guess what? I’m in that camp right now.”

Pessimism in the industry appears to be pervasive, with some specialists predicting not only that building sponsors will lose their equity but that mezzanine lenders will also be wiped out. “In many high-profile New York buildings, gale-force market winds are blowing destructively straight through the equity, slicing through the mezz and zeroing in on the first mortgages,” said Douglas Harmon, a senior managing director at Eastdil Secured and one of the city’s leading brokers.

Only owners with experience, solid relationships and financial resources are likely to survive, he said.

Mr. White said that even his estimate of $107 billion in actual and potential distress did not tell the whole story. Real Capital Analytics also calculated that another $84 billion worth of developments had been abandoned or stalled. But Mr. White said most of these projects were still in the planning stages, so the losses would be contained.

He said the database was created using very conservative standards. Inclusion on a credit agency watch list was not enough to make the list, he said. For example, Stuyvesant Town and Peter Cooper Village, a complex of 110 rent-regulated buildings in Manhattan that Tishman Speyer Properties and BlackRock Realty bought in 2006 for $5.4 billion, is not listed as potentially troubled, even though it has fallen short of its goals for deregulating apartments and bringing them up to market rate, and its bonds have been downgraded. Explaining the omission, Mr. White said: “The owners are financially capable and are saying it’s not in trouble.”

He said the worst difficulties would be experienced by owners with mortgages drawn up in 2006 and 2007, when lenders competed fiercely for business and allowed buyers to take out interest-only loans based on what turned to be wildly inflated projections of rent growth. Often, the cash flow from the buildings does not cover the monthly mortgage payment, and reserve funds are being depleted.

Nowhere was the competition more feverish than in Manhattan. Among the properties on the Real Capital Analytics list are several Midtown office buildings, including WorldWide Plaza on Eighth Avenue and 50th Street, that remain unsold from the $7 billion portfolio that Harry B. Macklowe acquired in February 2007 and had to give up a year later.

Also on the list is 450 West 33rd Street, a building whose tenants include The Daily News. Broadway Partners, a company once known for flipping buildings for astounding prices, bought the building last year for $664 million but has not been able to sell it. Meanwhile, Broadway has to repay $1.2 billion in debt by spring — debt that has already been extended.

Speaking about the market in general, Scott A. Singer, the executive vice president of the Singer & Bassuk Organization, a real estate finance and brokerage company, said extensions were eventually going to be harder to come by. “Unfortunately, as we move into the new year, there is going to be less willingness or opportunity in some situations for lenders to renegotiate,” he said.

Another building listed by Real Capital Analytics as potentially troubled is 660 Madison Avenue, which Broadway bought in May 2006 for $216.5 million and flipped to Risanamento, a real estate company in Milan, in August 2007 for $375 million, or $1,488 a square foot, one of the highest prices ever achieved. (The sale did not include the separately owned Barneys store below the 14 floors of office space.)

Risanamento put the building on the market in June, but has since decided to ride out the downturn, even though there is little likelihood that the building will realize its projected rents of $200 a square foot, real estate brokers said.

In addition to New York, other areas with a large inventory of troubled properties include Los Angeles ($11 billion), Las Vegas ($6.6 billion) and southern Florida ($4.2 billion). All sectors will be affected, but the retail, apartment and hotel sectors are likely to suffer most, the data showed.

Mr. White said many people became overconfident because there had been little overbuilding, in contrast to the 1980s. Then, earlier this year, the industry was too slow to recognize that the downturn was approaching, he said.

“People need to go into this with their eyes wide open,” he said. “Too many of us, me included, were too optimistic during first part of ’08. I don’t want to be burned again. Unfortunately, these numbers are, if anything, conservative.”